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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,722	04/03/2000	Karl Wadt	GR 97 P 3757	4809

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EXAMINER

GUBIOTTI, MATTHEW P

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 06/19/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/541,722

Applicant(s)

WADT, KARL

Examiner

Matthew Gubiotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-14 are pending in this action.

Priority

2. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading "This application claims priority of German Application No. 19743758.3, filed October 2nd, 1997." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of all nonprovisional parent applications referenced should be included.

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in copending International Application no. PCT/EP98/06003 on September 21, 1998. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

4. The information disclosure statement (IDS) filed April 3, 2000 fails to comply with the provisions of 37 CFR 1.97, 1.98

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and MPEP § 609 because it does not contain an English translation of Document Nos. 0607493A2 or 4446286C1. The IDS has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Objections

5. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim (See e.g. Claims 9-14). It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

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Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 5 recite the limitation "performing regular processing" in Lines 22 and 21, respectively. The term, as applied to the system claimed in the invention, is sufficiently vague as to render the claims indefinite. Regular processing is commonly used without consistent meaning in the art. For example, depending upon the context of its use, the term regular processing for an application might involve stepping to a next instruction, or stopping processing altogether. The term has been further treated below by the Examiner as reading "taking no action".

Claims 2-4 and 6-14 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

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8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Nonaka et al. (U.S. Pat. No. 5,619,716) (hereafter Nonaka).

Claims 1 and 5

Nonaka teaches a system and method for digital signal processing substantially as claim (See Abstract) comprising:

"a data transmission unit" ("server"; fig.1, ref.10; col.6, li.52-55);

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"a plurality of data processing units..." Nonaka teaches a client-server network in which data processing units ("clients") implementing a computer program are operable to communicate with each other (fig. 1; col.9, li.29-37);

"each of said processing units..." Nonaka teaches assigning a revision identity characterizing its update status to a signal produced by the data processing unit (fig.4, ref.2713; col.8, li.23-26);

"one of said data processing units..." Nonaka teaches a data processing unit receiving a signal and performing a comparison to determine if the revision identity matches a stored revision identity (fig.4, ref.2715; col.3, li.48-56);

"said data processing unit..." Nonaka teaches regular processing the signal if the revision identities match and not performing regular processing of the signal if they do not match (fig.2; col.15, li.2-29) (See also col.5, li.13-18).

Claim 2

Nonaka further teaches each data processing unit contains an analysis module for carrying out a version comparison ("redirector update routine"; col.6, li.45-51; fig.1, ref.27).

Claim 3

Nonaka further teaches the system including a first database for storing the update status of at least one of the

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signals ("version management table"; fig.1, ref.2750; col.6, li.61-64). Nonaka further teaches a second database storing the computer programs of all the data programming units, in addition to future revisions of signals and programs to be modified ("configuration management database"; fig.1, ref.15; col.8, li.52-61;).

Claim 4

Nonaka further teaches a service system for updating computer programs and the signals of data processing units (fig.4, ref.2716; col.3, li.57-58).

Claims 6-8

Nonaka further teaches a stored revision identity in an analysis module in the data processing unit receiving the signal and in a database ("version management table within a redirector stored within a database; fig.1, refs. 2750, 27 and 25; col.6, li.61-64).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

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the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka.

Claims 9-11

Nonaka further teaches incrementing a revision identity characterizing the signal and the revision identity stored for the signal ("storing the last configuration information in the version management table"; col.5, li.43-47) (See also col.6, li.61-64) (discussing version information stored as a numerical value). Nonaka does not expressly teach that this value is incremented by the value of one. The Examiner takes official notice that at the time of the invention, it was well known that software versioning was commonly released in versions differing by a value of one. One of ordinary skill in the art at the time of the invention was aware that older releases (e.g. 1.0) were commonly updated with newer versions incremented by a value of one. Therefore, it would have been obvious to incorporate to increment a revision identity by the value of one at the time of the invention to indicate an action taken regarding the status of a version of software housed on the system.

Claims 12-14

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Nonaka further teaches providing an indicator to illustrate a revision identity characterizing the signal and the revision identity stored for the signal have been updated once the signal has been removed ("updating a configuration history database"; col.16, li.44-50). Nonaka does not expressly disclose that the indicator is a negative mathematical operator ("-"). Nonaka teaches updating a revision history table to indicate that a prior version of software is no longer in use once a signal has been removed. This effect is taught by Nonaka as the creation of a line item in a configuration history database table. The use of a line item table displaying previous revision identifiers in a history table has the equivalent functionality of adding a negative mathematical symbol to a previous revision identifier. At the time of the invention, one of ordinary skill in the art would have been motivated to incorporate the negative mathematical operator as claimed into the method of Nonaka. The modification would have been obvious because one of ordinary skill would have been motivated to indicate previous revisions of a software element using a clear illustration of their status, as taught by Nonaka.

Conclusion

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Gubiotti whose telephone number is (703) 305-8285. The examiner can normally be reached on M-F, 8-4PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

MPG

June 11, 2003

Kakali Chaki
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